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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,526	05/20/2004	Randall Fenkell	0633.0001C	5581

27896 7590 12/13/2004

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EXAMINER

THANH, QUANG D

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/849,526

Applicant(s)

FENKELL, RANDALL

Examiner

Quang D. Thanh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) 3,6,7,12,13,16 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/13/2004
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited.

The abstract of the disclosure is objected to because the abstract is too long and exceeds 150 words in length. Correction is required. See MPEP § 608.01(b).

Claim Objections

2. Claim 3 is objected to because of the following informalities: "said mounting means" lack antecedent basis. Appropriate correction is required.

3. Claims 6-7, 12-13 and 16-17 are objected to because of the following informalities: "leg support" should be -- leg engagement -- in order to be consistent with the term disclosed in the specification. Appropriate correction is required.

4. Claims 7, 13 and 17 are objected to because of the following informalities: "corner member" should be -- corner portion --. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Kim (Pub. No. 2003/0176819 A1). Kim discloses a therapeutic treatment machine (fig. 1) comprising: a frame 1 having a forward section and a rearward section supported by a plurality of legs 17 (fig. 1); a pad 6a (fig. 1) for supporting a first body portion of a patient (buttock area) mounted within said forward section of said frame; a platform 12 (fig. 1) for supporting and securing a second body portion (genital area) of a patient displaceably mounted within said rearward section of said frame, drive means for cyclically moving said platform forcefully in the forward and backward directions, said drive means comprising: a motor 4 (fig. 1, paragraph 27) for producing rotation in a driven member 18 (fig. 1), a linkage arm 13 (fig. 1); means 14 (fig. 1) for converting rotational movement in said driven member to longitudinal reciprocation of said linkage arm; and means 8/9 (fig. 3 and 5) for moving said platform longitudinally with said linkage arm (paragraph 21).

7. Claims 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Fenkell (5,505,691). Funkell discloses a therapeutic treatment machine (fig. 1) comprising: a frame 12 having a forward section and a rearward section supported by a plurality of legs 40 (fig. 1); a pad 14 (fig. 1) for supporting a first body portion of a patient mounted within said forward section of said frame; a platform 20 (fig. 1) for supporting and securing a second body portion of a patient displaceably mounted within said rearward

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section of said frame, drive means for cyclically moving said platform forcefully in the forward and backward directions, wherein said platform is a foot support platform 20 (fig. 1, col. 4, lines 7-20) comprising: a support surface (fig. 8); bracket means 80/112/114 for removably securing first and second foot support plates 126 (fig. 8, col. 4, lines 21-31) in transversely spaced relation for supporting the bottoms of the patient's feet; first and second foot clamps 118 (fig. 8) for engaging the tops of the patient's feet and, in cooperation with said foot support plates, holding the patient's feet in place against longitudinal movement, and mounting means 106/116/104 (fig. 8) for removably securing said foot clamps to said foot support platform; (claim 9) the mounting means comprises: a T-bar having a stem 106 and a cross member 116 (fig. 8), wherein said stem is sized and configured to fit between said first and second foot plates 126 (fig. 8), said stem having a longitudinally extending slot (hole near 122 in fig. 8), means securing said foot clamps 118 to respective ends of said cross member 116 (best seen in fig. 8), threaded bolt means 122 extending through said slot to engage said platform at selectable locations along said slot to secure said T-bar to said platform (fig. 8, col. 4, lines 32-46).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1- 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Fenkell (5,505,691) in view of Park (6,682,495).

10. Re claim 1, Funkell discloses a therapeutic treatment machine (fig. 1) comprising: a frame 12 having a forward section and a rearward section supported by a plurality of legs 40 (fig. 1); a pad 14 (fig. 1) for supporting a first body portion of a patient mounted within said forward section of said frame; a platform 20 (fig. 1) for supporting and securing a second body portion of a patient displaceably mounted within said rearward section of said frame, drive means for cyclically moving said platform forcefully in the forward and backward directions including a motor and means 82 for moving said platform longitudinally with said linkage arm, except for a linkage arm and means for converting rotational movement to longitudinal reciprocation of the linkage arm. However, Park teaches a reciprocating platform 11 (fig. 1) that can be cyclically moved in both forward and backward directions by a drive means, which comprises a motor 19', a pulley and belt system 26/24 (fig. 5, col. 3, lines 23-42) or a motor 19, a linkage arm 29, and means 27 for converting rotational movement of the driven member 23 to longitudinal reciprocation of the linkage arm (fig. 2, lines 47-59). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the device in the Funkell's reference, to substitute the drive means for an equivalent drive means with linkage arm, as suggested and taught by Park, for the purpose of providing another alternative equivalent drive means for reciprocating the platform back and forth cyclically.

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11. Re claims 2- 3, Funkell discloses the platform is a foot support platform 20 (fig. 1, col. 4, lines 7-20) comprising: a support surface (fig. 8); first and second foot rests 110 (fig. 1) secured to said surface in transversely spaced relation for supporting the heel portions of the patient's feet; bracket means 80/112/114 for removably securing first and second foot support plates 126 (fig. 8, col. 4, lines 21-31) in transversely spaced relation for supporting the bottoms of the patient's feet; first and second foot clamps 118 (fig. 1) for engaging the tops of the patient's feet and, and mounting means 106/116/104 (fig. 8) for removably securing said foot clamps to said foot support platform; (claim 3) the mounting means comprises: a T-bar having a stem 106 and a cross member 116 (fig. 8), wherein said stem is sized and configured to fit between said first and second foot plates 126 (fig. 8), said stem having a longitudinally extending slot (a hole near 122 in fig. 8), means securing said foot clamps 118 to respective ends of said cross member 116 (best seen in fig. 8), threaded bolt means 122 extending through said slot to engage said platform at selectable locations along said slot to secure said T-bar to said platform (fig. 8, col. 4, lines 32-46).

12. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Fenkell/Park and further in view of Checkwood et al. (4,242,969) and Winter et al. (6,808,184).

13. Re claims 4, Fenkell/Park discloses the claimed invention including a generally rectangular frame comprising tubular frame members interconnected at corners of the

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frame by respective corner members (fig. 1), but is silent regarding the details structure of the corner member and adhesive means for securing the corner member to the frame. However, Checkwood teaches a corner member 24 (fig. 3) having a corner portion (fig. 3); first 24A and second 24B (fig. 3) arms extending from orthogonally oriented sides, and the arms configured to be slidably inserted into respective tubular frame members 12/13 (fig. 3, col.3, lines 33-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the device in the Funkell's reference, so that the corner member would include two arms, as suggested and taught by Checkwood, for the purpose of allowing the corner members to be inserted securely into the tubular frame members (fig. 3, col.3, lines 33-48). Regarding the limitation "adhesive means for securing said first and second arms in said respective frame members", Winter also teaches that in addition to the mechanical fasteners such as bolt, nuts, or clamps, chemical adhesives may also be used, and that the table may provide great benefits in combination with adhesive fastening method (col. 10, lines 1-6). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to also utilize adhesive fastening method to secure the corner members to the frame members, as suggested and taught by Winter, for the purpose of allowing the corner members to be permanently secured to the tubular frame members when assembled thus the corner members and the frame members become a fixed, rigid assembly perfectly satisfactory for therapeutic use.

14. Re claims 5-7, Checkwood also discloses that each of said first and second arms is a generally U-shaped member (arms 26 A and 26B both has a general U shape

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best seen in fig. 5) formed integrally as one piece with said corner portion and having a base 270 disposed at said corner portion and two spaced sides extending distally (best seen in fig. 5); (claim 6) the frame is supported by a plurality of legs 40 (Fenkell, fig. 1) at each of said corners, wherein each corner member includes a leg support member 30 (Checkwood, fig. 5) extending orthogonally to said first and second arms from said corner portion and configured to telescopically engage a respective leg (col. 4, line 60 to col. 5, line 3); (claim 7) since Fankell already teaches that the frame 12 is made of aluminum (col. 3, lines 22-25), therefore it would have been obvious to one of ordinary skill in the art at the time of invention was made to also utilize aluminum to make the corner member as a single piece of cast aluminum.

15. Claims 10-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Fenkell and further in view of Checkwood et al. (4,242,969) and Winter et al. (6,808,184). Re claims 10 and 14, see discussion above in claim 4. Re claims 11-13 and 15-17, see discussion above in claims 5-7.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rassman '899 discloses a back manipulating apparatus. St. Mary '296 discloses a massage machine. King '987 teaches conventional means for securing parts of the play table. Timmerman '787 discloses a knockdown joint construction.

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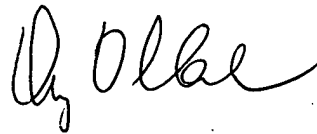
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (571) 272-4982. The examiner can normally be reached on Monday-Thursday & alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for both regular and After-Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Quang D. Thanh
Patent Examiner
Art Unit 3764
(571) 272-4982

December 8, 2004

A handwritten signature in black ink, appearing to read 'Q. Thanh', is written over the printed name and date.